

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5401

IN THE MATTER OF:

Served August 31, 1998

Investigation of Unauthorized) Case No. MP-98-13
Transfer of Control, Directed to:)
BETHANY TRAVEL AGENCY, INC.,)
Trading as BETHANY TRAVEL AND)
LIMOUSINE SERVICE, WMATC No. 185,)
and BETHANY LIMOUSINE & BUSES, INC.)

Application to Transfer Certificate) Case No. AP-98-23
No. 185 from BETHANY TRAVEL)
AGENCY, INC., Trading as BETHANY)
TRAVEL AND LIMOUSINE SERVICE, to)
BETHANY LIMOUSINE & BUSES, INC.)

On April 7, 1998, in Order No. 5308, the Commission initiated an investigation of respondents -- Bethany Travel Agency, Inc., trading as Bethany Travel and Limousine Service, Carrier No. 185, ("Bethany Travel"), and Bethany Limousine & Buses, Inc., a Virginia corporation, ("Bethany Bus") -- to determine whether they violated Article XI, Section 11, and/or Article XII, Section 3, of the Compact by transferring assets from Bethany Travel to Bethany Bus without Commission approval. Order No. 5308 allowed respondents thirty days to file an acceptable transfer application or show cause why a civil forfeiture should not be assessed. The deadline was subsequently extended to May 22, 1998.¹

By application accepted for filing May 22, 1998, Bethany Travel and Bethany Bus seek Commission approval to transfer a substantial part of Bethany Travel's assets, including Certificate No. 185, to Bethany Bus. The application indicates that Bethany Travel and Bethany Bus are under common ownership.

Bethany Bus proposes to file Bethany Travel's current tariff as its own and commence operations with a substantial number of sedans, limousines, vans, minibuses and motorcoaches.

Under Article XI, Section 11(a), and Article XII, Section 3(a)(ii), of the Compact, the Commission may approve the transfer of assets from a WMATC carrier to another carrier, including a WMATC certificate of authority, if the Commission finds the transfer to be in the public interest. The public interest analysis focuses on the

¹ Order No. 5330 (May 12, 1998).

acquiring party's fitness, the resulting competitive balance and the interests of affected employees.²

In this case, competition is not an issue inasmuch as transferring assets from one member of a controlled family to another will not increase the controlling parties' market share, which is the primary concern when assessing the effect of common control on competition.³ That leaves Bethany Bus's fitness and the transfer's effect on employees as the two remaining issues.

Bethany Bus filed a balance sheet as of March 31, 1998, showing assets of \$2,895,528; liabilities of \$2,562,055; and equity of \$333,473. Bethany Bus's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$3,691,110; expenses of \$3,884,902; and a net loss of \$193,792.

Although Bethany Bus is projecting a net loss during the first year of WMATC operations, its current assets and projected cash flow adjusted for depreciation are sufficient to cover projected expenses and current liabilities. We have found other applicants financially fit under similar circumstances.⁴

Bethany Bus indicates it will retain all employees previously employed by Bethany Travel in its WMATC operations.

Bethany Bus certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds Bethany Bus to be fit, willing, and able to perform the proposed transportation properly and conform with applicable regulatory requirements, finds there likely will be no adverse impact on Bethany Travel's employees and, therefore, finds that the transfer of assets, including Certificate No. 185, to Bethany Bus is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That Case No. MP-98-13 and Case No. AP-98-23 are hereby consolidated.

² In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd. & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

³ In re Coach One, Inc., t/a Exec. Coach, No. AP-98-06, Order No. 5295 (Mar. 19, 1998).

⁴ E.g., In re Washington Shuttle, Inc., t/a Supershuttle, No. AP-96-13, Order No. 4966 (Nov. 8, 1996) (discussing same).

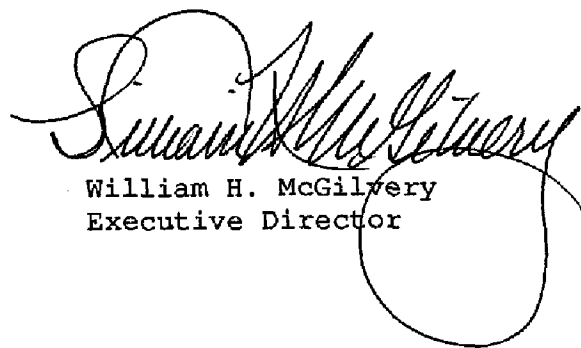
2. That upon Bethany Bus's timely compliance with the requirements of this order, Certificate of Authority No. 185 shall be reissued to Bethany Limousine & Buses, Inc., 2120 West Virginia Avenue, N.E., Washington, DC 20002, and Case No. MP-98-13 shall stand terminated.

3. That Bethany Bus may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate of Authority No. 185 has been reissued in accordance with the preceding paragraph.

4. That Bethany Bus is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

5. That upon Bethany Bus's failure to timely satisfy the conditions of reissuance prescribed herein, the approval of transfer herein shall be void, the application shall stand denied, and respondents shall have thirty days to pay a civil forfeiture of \$500 and show cause why Certificate of Authority No. 185 should not be revoked.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director

